

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE PUBLIC UTILITIES COMMISSION

In the Matter of the Petition of Charter
Fiberlink, LLC, for Arbitration of an
Interconnection Agreement with Qwest
Corporation Pursuant to
47 U.S.C. § 252(b)

FIRST PREHEARING ORDER

This matter came on for a telephone prehearing conference before
Administrative Law Judge Kathleen D. Sheehy on September 12, 2008.

Gregory Merz, Gray, Plant, Mooty, Mooty & Bennett, PA, 500 IDS Center,
80 South Eighth Street, Minneapolis, MN 55402-3796; and K. C. Halm, Davis
Wright Tremaine LLP, Suite 200, 1919 Pennsylvania Avenue, Washington, DC
20006-3402, appeared for Charter Fiberlink, LLC. Clifford Williams, Charter
Fiberlink, LLC, 12405 Powerscourt Drive, St. Louis, MO 63131, also participated.

Thomas Dethlefs, Qwest Corporation, 1801 California Avenue, 10th Floor,
Denver, CO 80202, appeared for Qwest.

Linda S. Jensen, Assistant Attorney General, 445 Minnesota Street, Suite
1400, St. Paul, MN 55101-2131, appeared on behalf of the Department of
Commerce (Department). Edward Fagerlund and Andrew Bahn also
participated.

Kevin O'Grady appeared for the staff of the Commission.

Based on the discussions during the prehearing conference, and all the
files and proceedings herein, the Administrative Law Judge makes the following:

ORDER

1. The parties to this matter are Charter Fiberlink, Qwest, and the
Department.¹

2. Pursuant to Minn. R. 7812.1700, subp. 10, others wishing to
participate in an interconnection arbitration are limited to status as observers.
Any person wishing to participate in the hearing as an observer must make such
a request by October 10, 2008.

¹ The Department's Petition to Intervene was filed on September 10, 2008. The Petition was
granted during the telephone conference.

Schedule

3. The following schedule is adopted:

Direct Testimony (Charter Fiberlink and Qwest)	October 24, 2008
Direct Testimony (Department)	November 20, 2008
Rebuttal Testimony (Charter Fiberlink and Qwest)	December 5, 2008
Evidentiary Hearing, beginning at 9:30 a.m. at the PUC	January 21-23, 2009

4. The deadlines for submission of post-hearing briefs and the recommended arbitration decision will be set at the conclusion of the hearing.²

Procedure

5. The rules of the Office of Administrative Hearings govern the conduct of the hearings, and the Professionalism Aspirations adopted by the Minnesota Supreme Court will be observed.

Filing of Documents

6. Prefiled testimony and exhibits may be in any reasonable format that is understandable, logically organized, and capable of being cited by page and line number, paragraph number, or similar identifier.

7. All documents, including prefiled testimony **but excluding information requests and responses**, shall be filed using the E-file system of the Public Utilities Commission, the Department, and the Office of Administrative Hearings. E-filing constitutes service on those offices and upon any other party that has agreed to accept E-filing as service (see attached Service List). Parties using the E-filing system must retain the unique document identifier as proof of service through that system. Proof of service shall be filed with each document or within three business days thereafter.

² Charter Fiberlink and Qwest began negotiating this interconnection agreement some time ago. For purposes of this arbitration, they have agreed that the "request for negotiations" date was March 1, 2008. See Petition of Charter Fiberlink at 3. Charter Fiberlink has agreed to extend the statutory deadline for conclusion of the arbitration (which otherwise would be November 26, 2008) in a manner consistent with the above schedule.

8. The original document shall be filed using the E-file system wherever feasible. Otherwise, the original document shall be filed by delivery or mail with the Administrative Law Judge.

9. The effective date of filing shall be the date the document is E-filed, mailed by U.S. Mail, or delivered to the Administrative Law Judge.

10. With the exception of Trade Secret and other Nonpublic data, copies of all documents that are filed shall be served by e-mail according to the attached Service List, and a hard copy shall also be mailed or delivered that day to the persons so indicated on the Service List. The list will be revised as necessary by the Office of Administrative Hearings.

11. After the Administrative Law Judge's Report is issued, the parties shall file the original of all documents with the Executive Secretary of the Commission.

12. If Trade Secret or Nonpublic data are filed with the Administrative Law Judge, it shall be prepared and marked in accordance with the Public Utilities Commission's September 1, 1999, Revised Procedures for Handling Trade Secret and Privileged Data. The procedures may be viewed at www.puc.state.mn.us/docs/tradsecret.pdf. Access to nonpublic data shall be governed by a protective agreement and order.

Discovery

13. A party may serve requests for information on any other party. All requests for information shall be made in writing or by e-mail. Upon request, a copy of the information request shall be sent to all parties. Any request received after 4:30 p.m. on a business day, on a weekend day, or on a state holiday is considered received on the next business day.

14. The party responding to the request shall provide the requested information to the requesting party within eight business days of receipt of the request. A business day does not include weekend days or state holidays.

15. Responses to information requests shall be submitted on or before 4:30 p.m. on the due date.

16. In the event that requested information cannot be supplied within the required response time, the responding party shall notify the requesting party as soon as reasonably possible in advance of the deadline of the reasons for not being able to supply the information and to work out a schedule of compliance with the requesting party. All disputes concerning the reasonableness of discovery requests and the timing and sufficiency of responses shall be resolved by the Administrative Law Judge upon motion of a party. Such motion should be made by e-mail notice requesting a telephone conference among the Administrative Law Judge and affected parties.

17. Parties asked to provide Trade Secret or Nonpublic information may require the requesting party to comply with the terms of a protective agreement and order.

Prefiled Testimony and Order of Testimony

18. Prefiled testimony shall be marked as an exhibit and offered for admission into the record at the hearing. A hard copy shall be provided for that purpose, and the offering party shall provide the unique E-file identifying number. The Administrative Law Judge will assign a hearing exhibit number to the document at the time that it is offered for admission at the hearing.

19. Prefiled testimony that is amended, or not offered into the record, shall be considered withdrawn, and no witness shall be cross-examined concerning the withdrawn testimony. Except for good cause shown, all substantive revisions or corrections to any prefiled testimony shall be in writing and served upon the Administrative Law Judge and the parties no later than three days prior to the commencement of the evidentiary hearing.

20. Except for good cause shown, any new affirmative matter that is not offered in reply to another party's direct case will not be allowed in rebuttal testimony or exhibits.

21. Unless the parties agree otherwise, the order of testimony and questioning in the evidentiary hearing shall be: Qwest, Charter Fiberlink, and the Department. The parties shall attempt to agree on the order of presentation of issues and witnesses.

Examination of Witnesses

22. Witnesses shall be allowed ten minutes to summarize their prefiled testimony. For good cause shown, witnesses will be permitted to respond to any new matters not addressed in prefiled testimony through direct examination by counsel.

23. Parties shall examine and cross-examine witnesses through their attorneys.

24. Except for good cause shown, objections by any party relating to the qualifications of a witness or the admissibility of any portion of a witness's prefiled testimony shall be considered waived unless the objecting party states its objection by motion made to the Administrative Law Judge, and serves a copy of such objections on the parties, **no later than January 14, 2008**. If an objection is made by a party, the party shall be permitted to lay further foundation for the objection through cross-examination of the witness. Any prefiled testimony that is not objected to shall be admitted during the evidentiary hearings without the necessity of laying foundation for the testimony.

Court Reporter

25. The Office of Administrative Hearings will arrange to have a court reporter present at the hearing. Parties must make arrangements with the Court Reporter to obtain a copy of the transcript. The Court Reporter should receive e-mail copies of all filings that address the schedule in this matter and e-mail copies of the prefiled testimony. Do not send Information Requests or Responses to the Court Reporter.

Request for Accommodation

26. No person has requested accommodation for a disability or appointment of an interpreter. Notify the Office of Administrative Hearings promptly if an accommodation or interpreter is needed.

Dated: September 25, 2008.

s/Kathleen D. Sheehy

KATHLEEN D. SHEEHY
Administrative Law Judge